

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5602

PETITION OF JANE AND ERIC YAFFE
(Hearing held June 6, 2001)

OPINION OF THE BOARD
(Effective date of Opinion, August 24, 2001)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(a). The petitioners propose to construct a covered porch that requires a 2.41 foot variance as it is within 23.41 feet of the established front building line. The required setback is 28.83 feet.

The subject property is Lot 8, Block 4, located at 9417 Holland Avenue, Bethesda, Maryland, in the R-60 Zone (Tax Account No. 690928).

Decision of the Board: Requested variance **granted**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to construct an 8.50 x 2.58 foot covered front porch.
2. The petitioner testified that the proposed porch would replace an existing 2-step porch, with a 3-step covered porch that would provide easier accessibility to the residence. The petitioner testified that the proposed porch would follow the architectural design of the house.
3. The petitioner testified that their street has a slight inverse curve and that the curve peaks at the front of the their lot. The petitioner testified that because of the street's curve their home is located closer to the road than the other homes on the street. See, Exhibit Nos. 10(b) and 10(c).
4. Christopher Snowber, the petitioners' architect, testified that because of the curvature of the road, the petitioners' property is the smallest and shallowest lot in the immediate neighborhood. See, Exhibit No. 13 (partial subdivision map). Mr. Snowber testified that the porch would have a hip roof to diminish the view of the structure from the neighboring properties.
5. The petitioner testified that she has spoken with her neighbors and that the neighbors support the variance request. Letters of support were entered in the record as Exhibit Nos. 10(g) through 10(k).

FINDINGS OF THE BOARD

Based on the petitioner's binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

- (a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The property is the smallest and shallowest lot in the immediate neighborhood and the lot is located at the peak of the curve on Holland Avenue. These conditions are peculiar and exceptional to the property and would result in practical difficulties and an undue hardship upon the homeowners if the variance were denied.

- (b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that the variance requested for the proposed construction a covered porch is the minimum reasonably necessary to overcome the exceptional conditions of the property.

- (c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The proposed construction will continue the residential use of the property and the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

- (d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The record contains no testimony or correspondence in opposition to the variance request and the record contains several letters of support. The Board finds that the architectural design of the proposed porch will minimize the view for the neighboring properties and that the requested variance will not be detrimental to the use and enjoyment of the adjoining and neighboring properties.

Accordingly, the requested variance of 2.41 feet from the required 28.83 foot established front building line for the construction of a covered porch is granted subject to the following conditions:

1. The petitioner shall be bound by all of her testimony and exhibits of record, and the testimony of her witnesses, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 5, 6(a) and 6(b).

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Angelo M. Caputo, seconded by Louise L. Mayer, with Donna L. Barron and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution. Board member Mindy Pittell Hurwitz was necessarily absent and did not participate in this Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 24th day of August, 2001

Katherine Freeman
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.